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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,729	01/23/2004	Danny S. Parker	UCF-449CIP	2655
23717	7590	02/22/2006	EXAMINER	
LAW OFFICES OF BRIAN S STEINBERGER 101 BREVARD AVENUE COCOA, FL 32922			JIANG, CHEN WEN	
			ART UNIT	PAPER NUMBER
			3744	
DATE MAILED: 02/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,729

Applicant(s)

PARKER ET AL.

Examiner

Chen-Wen Jiang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 16, 17, 36 and 39-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18-35, 37 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040123</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention IV (claims 1-15 and 18-38) in the reply filed on 12/12/2005 is acknowledged. The traversal is on the ground(s) that Applicant agrees with the claims are separate inventions but not stated that separate searches are necessary. This is not found persuasive because the justifications of restriction are described in the restriction requirement mailed 11/23/2005. However, claim 36 was inadvertently double grouped in Invention IV. Claim 36 should be in Invention I only. Therefore, claim 36 has been withdrawn by the Examiner in this Office Action.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. Claims 9 and 10 are objected to because of the following informalities: These two claims probably should be depend on the claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4,6-9 and 11-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tolbert Jr. et al. (U.S. Patent Number 6,172,476).

Tolbert Jr. et al. disclose a HVAC system with control to blower motor and fan with electrical motor of all types. The system comprises a motor 16, a controller having rectifier 70, wave controller 74 and switch 76 to selectively control the fan speed. Tolbert Jr. et al. disclose it's well known to drive the fan in different speeds, RPM to generate the appropriate CFM by the power of the motor. In regarding to the diameter of the blade, it is a design choice depending on the capacity and efficiency requirements.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5,10,15,18-23,24-35,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolbert Jr. et al. (U.S. Patent Number 6,172,476) in view of Egawa et al. (U.S. Patent Number 6,210,118).

Tolbert Jr. et al. disclose a HVAC system with control to blower motor and fan with electrical motor of all types. The system comprises a motor 16, a controller having rectifier 70, wave controller 74 and switch 76 to selectively control the fan speed. Tolbert Jr. et al. disclose it's well known to drive the fan in different speeds, RPM to generate the appropriate CFM by the power of the motor. In regarding to the diameter of the blade, it is a design choice depending on the capacity and efficiency requirements. However, Tolbert Jr. et al. does not disclose twisted blade. Egawa et al. discloses plurality twisted blade in the same field of endeavor for the purpose of increase efficiency. Therefore, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to provide the apparatus of Tolbert Jr. et al. with twisted blades in view of Egawa et al. so as to improve efficiency.

7. Claims 1-15,18-35,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin Sr. (U.S. Patent Number 6,519,966).

Martin Sr. discloses an air conditioning and heat pump system. The system comprises coils 30,40 and fan 20. In operation, in certain aspects, a fan 20; e.g. a 1/15 to 1/2 horsepower fan rotating at 625 to 1125 rpm's and moving 500 to 4000 cfm through the coils. In regard to the motor and twisted blade, the Examiner takes the official notice that the PSC motor and twisted blades are well known in the prior art and the fan size and blade arrangement are design choice.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-15,18-35,37 and 38 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4,6-9,11-14,16-20 and

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22-41 of copending Application No. 10/400,888. Although the conflicting claims are not identical, they are not patentably distinct from each other because '888 claim the same invention with slightly different rpm and CFM.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809.

The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

